



OFFICE OF SPECIAL COUNSEL

Privacy Act; System of Records

AGENCY: U.S. Office of Special Counsel.

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Office of Special Counsel (OSC) seeks, in accordance with the Privacy Act of 1974, to establish a new system of records titled, “Office of Special Counsel, OSC-4, Reasonable Accommodation Records.” This system of records allows OSC to collect and maintain information from employees who request accommodations from OSC for medical or religious reasons.

DATES: Written comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit written comments by mail to the: U.S. Office of Special Counsel, Office of the Clerk, 1730 M. St., N.W., Washington, DC 20036; or by email via: frliaison@osc.gov.

FOR FURTHER INFORMATION CONTACT: Amy Beckett, Senior Litigation Counsel, by telephone at (202) 804-7000, or by email at frliaison@osc.gov.

SUPPLEMENTARY INFORMATION: OSC is a permanent independent federal investigative and prosecutorial agency. OSC’s basic authorities come from four federal statutes: The Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA).

OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing.

Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment based on disability, and Title VII of the Civil Rights Act of

1974 prohibits discrimination, including based on religion. These prohibitions on discrimination require Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship. In addition, some individuals may request modifications to their workspace, schedule, duties, or other requirements for reasons that may not qualify as a disability but may lead to an appropriate modification to workplace policies and practices.

In accordance with the Privacy Act of 1974, OSC proposes to establish a new system of records that allows OSC to collect and maintain information from employees who request reasonable accommodations from OSC for medical or religious reasons. Employees include applicants for employment and other individuals who participate in OSC programs and activities and who request reasonable accommodations and/or other appropriate modifications from OSC for medical or religious reasons.

SYSTEM NAME AND NUMBER: Office of Special Counsel, OSC-4, Reasonable Accommodation Records

SECURITY CLASSIFICATION: OSC's work related to this system of records would not ordinarily involve records that contain classified information. In the event there is classified information, OSC would maintain such records using methods approved for handling classified material.

SYSTEM LOCATION: Records are primarily maintained electronically by the Chief Human Capital Officer on OSC's Microsoft Enterprise System and/or in designated FedRAMP-authorized cloud service providers.

SYSTEM MANAGER(S): Chief Information Officer and Chief Human Capital Officer, U.S. Office of Special Counsel, 1730 M. St, NW, Suite 218, Washington, DC 20006, itsupport@osc.gov and hco@osc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 29 CFR 1614 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 5 U.S.C. 302, 1103; Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

PURPOSE(S) OF THE SYSTEM: The purpose of this system of records is to allow OSC to collect and maintain records on employees, applicants for employment, and other individuals who participate in OSC programs or activities, who request from OSC an accommodation or other modification for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests OSC-wide to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Applicants for Federal employment, Federal employees, and visitors to Federal buildings who request a reasonable accommodation or other appropriate modifications from OSC for medical or religious reasons.

CATEGORIES OF RECORDS IN THE SYSTEM: The principal types of records in the system are requests for reasonable accommodations that include the following:

- Requester's name;
- Requester's status (applicant or current employee);
- Date of request;
- Employee's position title, grade, series, step;

- Position title, grade, series, step of the position the requester is applying for;
- Requester's contact information (addresses, phone numbers, and email addresses);
- Description of the requester's medical condition or disability and any medical documentation provided in support of the request;
- Requester's statement of a sincerely held religious belief and any additional information provided concerning that religious belief and the need for an accommodation to exercise that belief;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was made orally or in writing;
- Documentation by an OSC official concerning whether the disability is obvious, and the accommodation is obvious and uncomplicated, whether medical documentation is required to evaluate the request, whether research is necessary regarding possible accommodations, and any extenuating circumstances that prevent the OSC official from meeting the relevant timeframe;
- Whether the request for reasonable accommodation was granted or denied, and if denied the reason for the denial;
- The amount of time taken to process the request;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

RECORD SOURCE CATEGORIES: Information is obtained from the individuals who request a reasonable accommodation or other appropriate modification from OSC;

directly or indirectly from appropriate medical professionals; directly or indirectly from an individual's religious or spiritual advisors or institutions; and from management officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES: The following routine uses permit OSC to:

- a. Disclose information to appropriate federal entities with subject matter expertise to the extent necessary to obtain advice on any authorities, programs, or functions associated with records in this system;
- b. Disclose information to the Office of Personnel Management (OPM) pursuant to Civil Service Rule 5.4 (5 CFR 5.4), or obtain an advisory opinion concerning the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations;
- c. Disclose to the Equal Employment Opportunity Commission or any other agency or office concerned with the enforcement of the anti-discrimination laws, information concerning the reasonable accommodation;
- d. Disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning: The grant or denial of a medical or religious accommodation or modification;
- e. Provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office (made at the written request of that individual);
- f. Furnish information to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C. 2904 and

- 2906, or other functions authorized by laws, regulations, and policies governing NARA operations and OSC records management responsibilities;
- g. Disclose information when consulting with, or referring a record to, another Federal entity for the purpose of making a decision on a request for information under the FOIA or the Privacy Act; or to the Office of Government Information Services established at NARA by the Open Government Act of 2007, which amended the FOIA, for the purpose of conducting mediation and otherwise resolving disputes under FOIA;
 - h. Disclose records to the Department of Justice (DOJ) when: 1. Any of the following entities or individuals is a party to litigation or has an interest in litigation: A. The OSC; B. Any employee of OSC in their official capacity; C. Any employee of OSC in their individual capacity whom DOJ has been asked or agreed to represent; or D. The United States, where OSC determines that OSC will be affected by the litigation; and 2. OSC determines that use of the records by DOJ is relevant and necessary to the litigation;
 - i. Disclose records in a proceeding before a court or adjudicative body, before which OSC is authorized to appear, when: 1. Any of the following entities or individuals is a party to, or has an interest in the proceedings: A. OSC; B. Any employee of OSC in their official capacity; C. Any employee of OSC in their individual capacity whom OSC has agreed to represent; or D. The United States, where OSC determines that OSC will be affected by the proceedings; and 2. OSC determines that use of the records is relevant and necessary to the proceedings;
 - j. Disclose information to first aid and safety personnel if the individual requires emergency treatment;
 - k. Disclose information to an Office of Inspector General (OIG) or comparable internal inspection, audit, or oversight office of an agency for the purpose of facilitating the

coordination and conduct of investigations and review of allegations within the purview of both OSC and the agency OIG or comparable office; or in notifying an OIG (or comparable office) of the disposition of matters referred by the OIG (or comparable office) to OSC;

- l. Disclose information to the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Special Counsel determines that disclosure is necessary to preserve confidence in the integrity of the OSC investigative process or is necessary to demonstrate the accountability of OSC officers, employees, or individuals covered by this system, or (3) the Special Counsel determines that there exists a legitimate public interest (e.g., to demonstrate that the law is being enforced, or to deter the commission of prohibited personnel practices, prohibited political activity, and other prohibited activity within OSC's jurisdiction), except to the extent that the Special Counsel determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;
- m. Disclose information to another Federal agency or oversight body charged with evaluating OSC's compliance with the laws, regulations, and policies governing reasonable accommodation requests;
- n. Disclose information to another Federal agency pursuant to a written agreement with OSC to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions;
- o. Disclose information to agency contractors, experts, consultants, detailees, or non-OSC employees performing or working on a contract, service, or other activity related to the system of records, when necessary to accomplish an agency function related to the system;
- p. Make lists and reports available to the public pursuant to 5 U.S.C. 1219;

- q. Disclose information: 1. To appropriate agencies, entities, and persons when: (1) OSC suspects or has confirmed that there has been a breach of the system of records; (2) OSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, OSC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; 2. To another Federal agency, or Federal entity when OSC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;
- r. Disclose pertinent information to the appropriate federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the record, either alone or in conjunction with other information, indicates a violation or potential violation of civil or criminal law or regulation; and
- s. Disclose information to the Integrity Committee established under section 11(d) of the Inspector General Act of 1978, when needed because of receipt, review or referral to the Integrity Committee under section 7(b) of Public Law 110-409; or as needed for a matter referred to OSC by the Integrity Committee.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The records in this system of records are stored electronically on OSC's Microsoft Enterprise System and/or in designated FedRAMP-authorized cloud service providers segregated from non-

government traffic and data. Access is limited to those agency personnel who have an official need for access to perform their duties and who have appropriate clearances or permissions. OSC requires new employees to read and acknowledge agency directives, including information technology user roles and responsibilities, records management, and privacy protection. OSC requires all employees to complete annual cybersecurity awareness training.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records may be retrieved by name or other unique personal identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: Records in this system of records are maintained in accordance with GRS 2.3 and are destroyed three (3) years after separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if requested for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records in the system are protected from unauthorized access and misuse through various administrative, technical, and electronic security measures. OSC's security measures are in compliance with the Federal Information Security Modernization Act (Pub. L. 113-283), associated OSC's policies, and applicable standards and guidance from the National Institute of Standards and Technology. Controls are in place to minimize the risk of compromising the information that is electronically stored. Access to the paper and electronic records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORDS ACCESS PROCEDURES: Individuals who wish to seek notification of and/or access to their records in the system of records should contact OSC's

FOIA/Privacy Act Officer, U.S. Office of Special Counsel by mail at 1730 M Street

NW., Suite 218, Washington, DC 20036; or by email at foiarequest@osc.gov. To assist in the process of locating and identifying records, individuals should furnish the following: Name and home address; business title and address; any other known identifying information such as an agency file number or identification number; a description of the circumstances under which the records were compiled; and any other information deemed necessary by OSC to properly process the request. Requesters should reasonably describe the records they seek. Rules about FOIA access are in 5 CFR 1820 and rules about Privacy Act access are in 5 CFR 1830.

CONTESTING RECORD PROCEDURES: Individuals who wish to contest records about themselves should contact OSC's Privacy Act Officer, identify any information they believe should be corrected, and furnish a statement of the basis for the requested correction along with all available supporting documents and materials. See OSC Privacy Act regulations at 5 CFR part 1830.

NOTIFICATION PROCEDURES: Individuals who wish to inquire whether this system contains information about them should follow the Record Access procedures noted above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

Date: December 16, 2021.

Travis Millsaps,
Deputy Special Counsel for Public Policy.

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